

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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Ismet Kukic,

Petitioner,

MEMORANDUM AND ORDER

-against-

20-MC-207 (RPK)

United States of America,

Respondent.

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RACHEL P. KOVNER, United States District Judge:

Petitioner Ismet Kukic, a/k/a Ismet Kukaj, who pleaded guilty in 2002 to one count of conspiracy to defraud the United States in violation of 18 U.S.C. § 371, brings this action seeking to seal and/or expunge the record of that criminal conviction on equitable grounds, based principally on subsequent rehabilitation. This Court lacks the authority to grant that relief.

In *Doe v. United States of America*, 833 F.3d 192 (2d Cir. 2016), the Second Circuit considered whether district courts have jurisdiction to grant requests—like the one here—to seal or expunge the records of valid criminal convictions on equitable grounds. *Id.* at 195 & 196 n.1. The court held that district courts lack that jurisdiction, in the absence of a statutory grant of expungement authority. *Id.* at 195. The court noted that while Congress had authorized courts to expunge lawful convictions “under certain limited circumstances,” Congress had “failed to provide for jurisdiction under the circumstances” in *Doe*. *Id.* at 199.

Doe establishes that this Court cannot expunge petitioner’s valid conviction on equitable grounds in the absence of a statute authorizing the Court to do so. Neither petitioner nor the government has identified a statute that authorizes expungement in these circumstances. And the Court has not found such a statute. Accordingly, the Court concludes that it lacks jurisdiction and

must dismiss this action. *See Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 94 (1998) (“Jurisdiction is power to declare law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.”) (quoting *Ex Parte McCordle*, 74 U.S. 506, 514 (1868)).

CONCLUSION

Petitioner's motion is dismissed due to the absence of jurisdiction. The Clerk of Court is directed to close this case.

SO ORDERED.

/s/ Rachel Kovner
RACHEL P. KOVNER
United States District Judge

Dated: Brooklyn, New York
March 17, 2020